



**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING STORM WATER DISCHARGES UNDER 327 IAC 5 NPDES AND PRETREATMENT PROGRAMS; AND NEW RULES UNDER 327 IAC 15 NPDES GENERAL PERMIT RULE PROGRAM RELATED TO MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4)  
LSA Document #01-96**

**Overview**

This rulemaking concerns amendments to storm water discharges under 327 IAC 5 and the development of a new rule under the 327 IAC 15 general permit rule program to add the federal requirements for Municipal Separate Sewer Systems (MS4s).

**Citations Affected**

Amends 327 IAC 5-4-6 and adds 327 IAC 15-13.

**Affected Persons**

This rulemaking affects federal, state, and local governments operating small storm water separate sewer systems primarily located in urbanized areas. This rulemaking could also potentially affect private and state universities, military bases, hospitals, and correctional facilities who meet the criteria for this designation.

**Reason(s) for the Rule**

This rulemaking is being initiated due to the new federal Phase II program regulations for storm water discharges that were published on December 8, 1999, at 64 FR 68722.

**Economic Impact of the Rule**

The U.S. EPA estimated the rule's costs to municipalities affected to average \$9.16 per household. U.S. EPA's analysis and conclusions regarding these costs can be found in the Federal Register at 64 FR 68791.

**Benefits of the Rule**

The environmental benefit to be achieved from

this rulemaking is that it regulates storm water run-off which is known to be a leading cause of pollution in water bodies. Also, by improving the aesthetic quality of the water, it will improve and increase the potential uses of water bodies, such as, recreational uses.

**Description of the Rulemaking Project**

This rulemaking is being initiated due to the new federal Phase II program regulations for storm water discharges. The National Pollutant Discharge Elimination System (NPDES) storm water Phase II final rule was published on December 8, 1999, at 64 FR 68722. It requires NPDES permit coverage, mostly under general permits, for storm water discharges from regulated municipal separate storm sewer systems (MS4s) primarily located in urbanized areas. Operators of MS4s located within a listed area will be designated into the Phase II program by the state. Therefore, the new rule language in Article 15 adds the federal Phase II requirements and rule language in Article 5 will be revised to reflect this change.

**Scheduled Hearings**

The initial public hearing was on May 8, 2002, at the Indiana Government Center South, Conference Center, Room C. At that meeting the hearing was continued to the June 12, 2002 WPCB meeting. At the June 12, 2002 WPCB meeting, the hearing was continued to the July 10, 2002 WPCB meeting. The July 10, 2002 WPCB meeting was cancelled. Therefore, a notice of public hearing for the preliminary adoption of 327 IAC 5 and 327 IAC 15 was published in the August 1, 2002, Indiana

Register. Preliminary Adoption occurred August 14, 2002. The Proposed Rule with Third Notice of Comment Period and Notice of Second Hearing was published on December 1, 2002, Indiana Register. Notice of public hearing was published on January 1, 2003. A change in Notice of public hearing was published on February 1, 2003, for a hearing to consider final adoption on February 12, 2003. That adoption hearing was continued by the Water Pollution Control Board to March 12, 2003.

### **Consideration of Factors Outlined in Indiana Code 13-14-8-4**

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
  - (A) human, plant animal, or aquatic life; or
  - (B) the reasonable enjoyment of life and property.

### **Consistency with Federal Requirements**

These rules are consistent with the federal rules.

### **Rulemaking Process**

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the departments responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The Water Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/ hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with the Secretary of State.

### **IDEM Contact**

Technical information regarding this rulemaking action may be obtained from Lori Gates, Wet Weather Section, Office of Water Quality, (317) 233-6725 or (800) 451-6027 (in Indiana). Additional information regarding this rulemaking action can be obtained from Kiran Verma, Rules Section, Office of Water Quality, (317) 234-0986 or (800) 451-6027 (in Indiana).